

FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST
EMIL R. MAURER,
RESPONDENT.

:
:
:
:

FINAL DECISION
AND ORDER

The State of Wisconsin, Real Estate Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of Complainant, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by Complainant's attorney, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Real Estate Examining Board, and is effective five (5) days from the date hereof. Let a copy of this Order be served on Respondent by certified mail.

Dated this 28th day of June, 1990.

BDLS-583



STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	PROPOSED DECISION
	:	
EMIL A. MAURER,	:	AND ORDER
RESPONDENT.	:	

The parties to this proceeding for the purpose of Wis. Stats., sec. 227.53 are:

Emil A. Maurer,
c/o Robert S. Duxstad
1112 17th Avenue
P.O. Box 787
Monroe, WI 53566-0737

State of Wisconsin Real Estate Board
1400 East Washington Avenue, Room 281
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Avenue, Room 183
P.O. Box 8935
Madison, WI 53708

The parties to the above-captioned matter have executed a Stipulation by Respondent Maurer, his Attorney Robert S. Duxstad, and Complainant's attorney Henry E. Sanders. A copy of the Stipulation is attached hereto and made a part hereof, and is incorporated into Complainant's Attorney Proposed Decision, and the Final Decision of the Board as if fully set forth therein.

Based upon the Stipulation, the pleadings and other documents of record herein, Complainant's attorney recommends that the Real Estate Board accept as its Final Decision the Findings of Facts, Conclusions of Law and Order which are the terms agreed upon and Stipulated to by the parties. Should the Board fail to accept this Proposed Decision as its Final Decision in the matter, then pursuant to Wis. Adm. Code sec. RL 2.12, the matter shall be remanded to the parties for further proceedings. In such event, the Board is requested to notify the parties of the basis for the Board's failure to adopt the Proposed Decision.

FINDINGS OF FACT

1. Respondent Emil A. Maurer (Maurer), of Box 129, Hwy. 11, South Wayne, Wisconsin 53587, is and was at all times material to the complaint licensed as a real estate broker and has been so licensed under the provisions of Chapter 452, Wis. Stats. since October 5, 1967.

b. If Respondent's probation should be revoked, then he agrees to voluntarily surrender any and all Real Estate licenses issued to him, to the department and be considered revoked without any recourse to a formal disciplinary proceeding. Respondent agrees to further consent and authorize his probation agent to submit progress reports relating to his probation status, to the department or Board, at either's request(s).

Dated at Madison, Wisconsin, this 7th day of June, 1990.

Respectfully Submitted,



Henry E. Sanders
Complainant's Attorney

ATY-1091
HES:vks

8. By virtue of the acts enumerated in the criminal complaint and the judgment of conviction enumerated supra in paragraphs 2-4, Respondent is deemed to have violated secs. RL 24.17(1)-(3), Wis. Adm. Code, violations and convictions of laws the circumstances of which substantially relate to the practices of real estate licensees; violated the provisions or terms or condition of ... violations of Chapter 452, Stats., Chapters RL, Wis. Adm. Code, and thereby is deemed to have violated sec. 452.14(3)(i), Wis. Stats. demonstrated incompetency within the meaning of sec. RL 24.01(3), Wis. Adm. Code.

9. Based upon the above and in settlement of this matter, Respondent agrees to voluntarily surrender his real estate broker's licenses for a period of three (3) years, commencing on a date to be determined in the Board's Final Decision and Order; that the Respondent's broker licenses/privileges shall be returned to him at the end of the three (3) year's suspension; that, on the effective date of the Board's Order, Respondent shall work solely as a salesperson under Real Estate Broker Debra K. Bidlingmaier Exhibit "C". Attached hereto, and shall pay to the department, the payment of \$250 as part of the costs associated in resolving this matter, Exhibit "D", attached hereto.

X a. If Respondent shall violate the terms of his probation, then same shall be considered by the Board or Real Estate Bureau in reaching any decision in regranting him his Real Estate Broker's licenses. Additionally, if Respondent designated supervising broker should charge, he shall forthwith submit a letter to the department from a newly-designated supervising broker, undertaking responsibility for Respondent's conduct and related Real Estate activities.

b. If Respondent's probation should be revoked, then he agrees to voluntarily surrender any and all Real Estate licenses issued to him, to the department and be considered revoked without any recourse to a formal disciplinary proceeding. Respondent agrees to further consent and authorize his probation agent to submit progress reports relating to his probation status, to the department or Board, at either's request(s).

10. As a basis in mitigation and acceptance of this stipulated agreement, the examiner and the Board are advised that Respondent is sixty-one (61) years, has been licensed as real estate broker since October 5, 1967 and has never had another complaint filed against him; and while it is arguable that the violations alleged are substantially related to real estate, the allegations do not directly relate to the practice of real estate, but is conduct which is unacceptable for a person who deals with the public such as a real estate licensee. In light of these factors, it is deemed that this stipulated agreement will act as a deterrence to Respondent and to other licensees who may be prone to commit such acts.

11. Respondent and his attorney, and Complainant's attorney agree that this Stipulation may be incorporated into the Examiner's Proposed Decision and Order, and the Final Decision and Order of the Board as if fully set forth therein.

JUDGMENT OF CONVICTION
SENTENCE WITHHELD, PROBATION ORDERED

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STATE OF WISCONSIN,
v.

Plaintiff

STATE OF WISCONSIN, Circuit Court Branch

Emil A. Maurer

Defendant

County Green

03/05/29

Defendant Date of Birth

Court Case No.

89-CR-250

The defendant entered his/her plea of ☒ guilty

☐ not guilty

☐ no contest;

The ☒ Court ☐ Jury found the defendant guilty of:

Felony or

Date(s)

Wis. Statute(s)

Misdemeanor

Class

Crime

Crime(s)

Violated

(F or M)

(A-E)

Committed

Second Degree Sexual Assault
(Count #3 of the Information)

940.225(2)(e)

F

C

June 27, 1989

committed in this County; and

On December 21, 1989, the Court inquired of the defendant why sentence should not be pronounced, and no sufficient grounds to the contrary being shown or appearing to the Court, and the Court having accorded the district attorney, defense counsel, and the defendant an opportunity to address the Court regarding sentence; and upon all the evidence, records, and proceedings, the Court pronounced findings and judgment as follows:

IT IS ADJUDGED that the defendant on October 13, 1989 was convicted as found guilty:

IT IS DETERMINED that society will not be harmed and the defendant will benefit by being placed on probation pursuant to Sec. 973.09, Wis. Stats.;

IT IS ADJUDGED that sentence is withheld and the defendant is placed on probation for the period of Six YEARS, in the custody and control of the Wisconsin Department of Health and Social Services, subject to its rules and orders pursuant to Sec. 973.10, Wis. Stats.;

IT IS DETERMINED AND ORDERED that the record requires court-imposed conditions as follows:

☐ None ☒ As ordered below:

That the defendant has the ability to pay within that period the amounts ordered herein. Should his/her financial condition change s/he shall forthwith petition this Court for reconsideration of such conditions.

Fines: ☒ None ☐ \$ _____; Court Costs: ☐ None ☒ \$ 20.00;

Attorney Fees: ☒ None ☐ \$ _____; Restitution: ☐ None ☒ \$ See Below or attached;

Other: ☒ None ☐ \$ _____;

Mandatory ☐ Felony 1 (# counts) @ \$50.00/50.00 amount \$ 50.00;

Victim/Witness Surcharge ☐ Misdemeanor _____ (# counts) @ \$20.00 Amount \$ _____;

(Sec. 973.045 Wis. Stats.) Paid ☐ Yes Amount \$ _____; ☒ No

That the defendant shall be incarcerated in the County Jail for the following periods:

☐ None ☒ The period of Nine Months in Green County Jail (May be served in LaFayette

County, if arrangements can be made between Sheriffs.) Defendant may be released for Counseling and Community Service. Jail time is to start December 27, 1989 at 9:00 A.M.

JAIL TIME IS TO BE WITH HUBER LAW.

IT IS FURTHER ORDERED that the defendant shall pay surcharges pursuant to Sec. 973.09(1)(b), Wis. Stats.;

IT IS ADJUDGED Three (3) days sentence credit are due pursuant to Sec. 973.155, Wis. Stats., and shall be redited if probation is revoked.

IT IS ORDERED that the Sheriff deliver the defendant into the custody of the Department as it directs.

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BY ORDER OF THE COURT Signature of Judge, Deputy Judge or Clerk

Name of Clerk
John K. Callahan

Date Signed
December 21, 1989

Name of Defense Attorney
Robert S. Duxstad

Name of District Attorney
Nicholas O. Funkhouser

IMPORTANT-CLERK OF COURT PLEASE NOTE

Send the following to the local Probation and Parole Office: two copies of this Judgment, two copies of the defendant's Probation Questionnaire (form DCR-38), and one copy of the Criminal Complaint.

STATE OF WISCONSIN,
Plaintiff

CRIMINAL COMPLAINT AND
WARRANT ISSUED BY
DISTRICT ATTORNEY

VS

EMIL A. MAURER
3557 STH 11
South Wayne, WI
YW DOB: 3/5/29

CASE NO. 89-CR- 200

Defendant

Jon W. Pepper, being first duly sworn, on oath believes that in the months of June and July, 1987, May of 1989 and June 27, 1989 in the Town of Jordan, Green County, Wisconsin, in said County, the defendant did:

FIRST COUNT: Feloniously and intentionally during July 1987 at the Notter farm at W9436 Coon Creek Road in the Town of Jordan, have sexual contact with S.L.N., DOB: 7/28/73, a female child between the ages of 12 and 16 years of age at the time of the offense,

contrary to Section 940.225(2)(e) Wis. Stats. This is a Class C Felony. Penalty upon conviction of this offense is a fine not to exceed \$10,000.00 or imprisonment not to exceed 10 years, or both.

Defendant is entitled to a preliminary examination on this count.

SECOND COUNT: Feloniously and intentionally during May 1989 at the Notter farm at W9436 Coon Creek Road in the Town of Jordan, have sexual contact with S.L.N., DOB: 7/28/73, a female child between the ages of 12 and 16 years of age at the time of the offense,

contrary to Section 940.225(2)(e) Wis. Stats. This is a Class C Felony. Penalty upon conviction of this offense is a fine not to exceed \$10,000.00 or imprisonment not to exceed 10 years, or both.

Defendant is entitled to a preliminary examination on this count.

THIRD COUNT: Feloniously and intentionally during June 27, 1989 at the Notter farm at W9436 Coon Creek Road in the Town of Jordan, have sexual contact with S.L.N., DOB: 7/28/73, a female child between the ages of 12 and 16 years of age at the time of the offense,

contrary to Section 940.225(2)(e) Wis. Stats. This is a Class C Felony. Penalty upon conviction of this offense is a fine not to exceed \$10,000.00 or imprisonment not to exceed 10 years, or both.

Defendant is entitled to a preliminary examination on this count.

EXHIBIT "B"

RE

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to do this at the time. Mauer further admits that these touching incidents described took place at the Norter farm in Green County and that another one took place in May of 1989 when he touched S.L.N. on her breast without permission and gave her \$80.00 in cash. Mauer further states that on June 27, 1989 he went to the Norter farm and gave S.L.N. a check for \$60.00 and hugged her and felt both her breasts, even though S.L.N. did not want him to do this and told him that her dad would be coming home. Mauer states that he held her against the wall and asked her to go to bed with him for sexual contact as he just wanted to touch her.

Pepper states that S.L.N. would have been between the ages of 13 and 15 years of age when these incidents occurred.

Subscribed and sworn to before me on

July 21, 1989

Date

[Signature]

Complainant

~~Assistant~~ District Attorney

Approved for filing

[Signature]

~~Assistant~~ District Attorney

Exhibit "B"

DEC 27 1989



State of Wisconsin

BUREAU OF REAL ESTATE

REAL ESTATE BROKER

22027

DEC 31, 1990

DEBRA K BIDLINGMAIER

N687 ALLEN RD
BROWNTOWN

WI 53522

EXHIBIT "C"

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review,
the times allowed for each and the identification
of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Real Estate Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Real Estate Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Real Estate Board.

The date of mailing of this decision is July 2, 1990.

WLD:dms
886-490